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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIMINAL APPELLATE SIDE

CRIMINAL CONTEMPT PETITION NO.37 OF 2006

M/s.A. Himanshu & Co. ..Petitioner

Versus

M/.B.V. Jewels & Ors. ..Respondents

Mr. P.K.Samdani, Senior Counsel with Mr. P.H. Halai,
fior the Petitioners
Mr.D.H. Mehta with Mr. Kirit Mody i/b. M/s.S.P. Pathak &
Co., for Respondent No.2.
Ms. Sangeeta D. Shinde, AGP for State.
Mr. C.K. Ardeshir with Mr. K. Panchmatia i/b. Panchmatia
& Co., for the Respondent No.7.

CORAM : F.I. REBELLO &
S.J.VAZIFDAR, JJ.
DATED : 28TH FEBRUARY 2007

P.C.

. The petitioner has sought to invoke the contempt jurisdiction of this Court based on certain averments in the affidavit of respondent No.2 and Respondent No.7. It is submitted that in Summons for Judgment which was taken out the learned Judge considered the averments therein and by his order dated 24th October, 2005 was pleased to grant unconditional leave to defend, to the respondents. The respondent No.1 is a partnership firm. The respondent Nos. 2 to 6 are its partners. The respondent No.7 according to the petitioners was in the employment of respondent No.1. Certain documentary evidence is sought to be placed before us which is a document dated 22nd February, 2006 and another document dated February 15, 2006.

2. Considering these two documents atleast, we are not inclined at this stage to exercise our contempt jurisdiction. It will be open to the petitioners, if they

are so entitled in law, to take out proceedings for perjury. The learned Counsel for the respondents points out to us that in fact the petitioners have taken out an application for perjury.

3. Considering the above and the requirement of strong test for invoking the contempt jurisdiction and the record before us we are not inclined to exercise the same. The contempt petition accordingly disposed of. Disposal of this Petition will not stand in the way of any other proceedings including perjury as taken out by the petitioners.

(**F.I. REBELLO**, J)

(**S.J.VAZIFDAR, J)**